

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

RICHARD ROGERS, individually and on
behalf of similarly situated individuals,

Plaintiff,

v.

BNSF RAILWAY COMPANY,

Defendant.

Case No. 1:19-cv-03083

Honorable Matthew F. Kennelly

**DEFENDANT'S MOTION TO WITHDRAW MORGAN LEWIS & BOCKIUS AS
COUNSEL AND SUBSTITUTE JONES DAY**

Pursuant to Local Rule 83.17 of the United States District Court for the Northern District of Illinois, Defendant BNSF Railway Company moves the Court for leave to withdraw the appearances of Elizabeth B. Herrington, Tinos Diamantatos, Gregory Fouts, Alborz Hassani, and Benjamin Kabe of Morgan Lewis & Bockius LLP as attorney for BNSF and permit Bethany K. Biesenthal and Michael J. Gray of Jones Day to substitute in as primary counsel of record in the above-captioned matter.

In support of this motion, Defendant states as follows:

1. On May 7, 2019, Elizabeth B. Herrington of Morgan Lewis & Bockius LLP filed a Notice of Appearance to represent BNSF in the above-captioned matter. (Dkt. 3.) Appearances for Diamantatos, Fouts, Hassani, and Kabe followed.

2. It is BNSF's desire that Bethany K. Biesenthal and Michael J. Gray, partners at Jones Day, in good standing and properly admitted to this Court, take over responsibility and representation with respect to the Defendant's case. Defendant has engaged Jones Day to represent it in settlement negotiations with the plaintiff and, if necessary, a re-trial on damages. Biesenthal

and Gray have represented litigants in multiple matters in this District and in federal and state courts around the nation and are prepared to represent the Defendant. Efrat R. Schulman of Jones Day also will represent BNSF in this matter.

3. Subject to being granted leave from this Court, the above-named Morgan Lewis attorneys wish to withdraw from representing the Defendant. Further, upon leave of Court, Bethany Biesenthal, Michael Gray and Efrat Schulman of Jones Day shall file their appearances.

4. The requested substitution of counsel will not prejudice the Defendant. Upon approval of this Court, BNSF will continue to be represented by Jones Day.

5. Copies of this motion have been served upon Plaintiffs as reflected in the attached.
WHEREFORE, Defendant respectfully requests that this Court grant the foregoing motion for (a) withdrawal and substitution of counsel, and (b) leave to file an appearance of the Jones Day attorneys.

Dated: August 15, 2023

Respectfully submitted,

By: /s/ Elizabeth B. Herrington

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Gregory T. Fouts
Alborz Hassani
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Counsel for BNSF Railway Company

CERTIFICATE OF SERVICE

I, Elizabeth B. Herrington, an attorney, hereby certify on August 15, 2023 that I caused a copy of the foregoing **DEFENDANT'S MOTION TO WITHDRAW MORGAN LEWIS & BOCKIUS AS COUNSEL AND SUBSTITUTE BETHANY BIESENTHAL OF JONES DAY** to be served upon all counsel of record via the Court's CM/ECF system.

/s/ Elizabeth B. Herrington
Elizabeth B. Herrington
Counsel BNSF Railway Company